

REMARKS

Claims 1-39 are pending. By this Amendment, claims 19-39 are cancelled, claims 1-2, 8 and 11-12 are amended and no new claims are added. The amendments are fully supported by the specification and do not add new matter.

Claim Objections

The Office Action objected to claim 33 for informalities. As claim 33 is cancelled by this Amendment, the Applicant respectfully requests withdrawal of the objection as moot.

Claim Rejections – 35 USC §112

The Office Action rejected claims 1, 3-18, 28, and 36-38 as indefinite under 35 USC §112, paragraph 2 for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Specifically, the Office Action rejected claim 1 as reciting a limitation without proper antecedent basis. By this Amendment, claim 1 has been amended to recite a “mixture of halides,” which has sufficient antecedent basis. As such, the Applicant respectfully requests withdrawal of the rejection of claim 1 as moot in view of the amended claim 1.

The Office Action also rejected the claims for failing to sufficiently define the metes and bounds of the term “high carbon.” As claims 28 and 36-38 have been cancelled by this Amendment, the Applicant respectfully requests withdrawal of the rejections of those claims as moot. The Applicant further traverses the assertion that the Application does not define what the carbon is high relative to. The Application at least defines “high carbon” as a relatively high weight percentage of carbon to sulfidic material. See e.g. Specification, Abstract (“when the term ‘relatively high carbon content’ is used herein it refers to a carbon content in the sulfidic

material that is typically higher than about 2 wt %"); Pg. 3, para. [0044] ("when a high level of carbon is present in the sulfidic material (e.g. 2-20 wt%)"). As such, the Application clearly defines the metes and bounds of "high carbon" and the Applicant respectfully requests withdrawal of the rejection.

Claim Rejections – 35 USC §102

The Office Action rejected claims 1-4, 7, 11-12 and 15-16 as anticipated by US Patent 2,835,569 to Reynaud. The Applicant respectfully traverses the rejection as Reynaud fails to disclose all elements of independent claims 1 and 2 as amended. Claims 1, 2, and 11-12 were amended to change the spelling of "oxidise" to conform to the idiomatic spelling used in the United States ("oxidize"). Claim 8 was amended to change the spelling of "litre" to conform to the idiomatic spelling used in the United States ("liter"). The specified amendments are purely formal and are not relevant to the substantive analysis.

Independent claims 1 and 2 were also amended to recite "preparing an acidic aqueous halide solution comprising a mixture of halides that has an oxidation potential sufficient to oxidize the sulfidic material." The amendments to independent claims 1 and 2 do not add new matter and are fully supported by the Specification at least at Pg. 2, para. [0030]. Reynaud does not does not anticipate independent claims 1 or 2 as Reynaud does not disclose a "mixture of halides" and instead relies on powerful oxidizing agents.

Reynaud emphasizes the necessity of quickly increasing the oxidation potential of the slurry to effectively extract the desired minerals. Raynaud, col. 3, line 45-51. In order to quickly increase the oxidation potential of the slurry, Reynaud discloses the use of powerful oxidizing agents, such as sodium chlorate. Reynaud teaches away from using solutions of halides, as

solutions of halides only slowly increase the oxidation potential of the slurry. Reynaud, Col. 2, line 33- 35. While independent claims 1 and 2 recite a “mixture of halides that has an oxidation potential sufficient to oxidize the sulfidic material,” Reynaud in contrast discloses employing powerful oxidizing agents, such as sodium chlorate, to increase the oxidation potential at a fast desired rate. Reynaud, Col. 3, line 20-23. Reynaud does not disclose the mixing of halides or oxidizing agents into “mixture of halides” in solution, but instead discloses solutions comprising a single, highly concentrated strong oxidizing agent to provide the necessary oxidizing agents. See e.g. Reynaud, Col. 5, line 52-55; Col. 6, line 24-25; and Col. 6, line 64-65. In the present invention, the mixture of halides in solution obviates the need for powerful oxidizing agents. As Reynaud fails to disclose a mixture of halides, Reynaud also fails to disclose all the limitations of the amended claims 1 and 2, as well as their dependent claims 3-4, 7, 11-12 and 15-16. MPEP §§2131. As such, the Applicant respectfully requests the withdrawal of the rejection of those claims.

The Office Action also rejected claims 19-27, 29-35 as anticipated by US Patent 4,878,945 to Raudsepp. As claims 19-27 and 29-35 have been cancelled by this Amendment, the Applicant respectfully requests withdrawal of the rejection of those claims as moot.

The Office Action rejected claims 36-38 as anticipated by US Patent 5,827,348 to Waddell. As claims 36-38 have been cancelled by this Amendment, the Applicant respectfully requests withdrawal of the rejection of those claims as moot.

The Office Action also reject claim 39 as anticipated by any or all of the preceding references. As claim 39 was cancelled by this Amendment, the Applicant respectfully requests withdrawal of the rejection as moot.

Claim Rejections – 35 USC §103

The Office Action rejected claims 1-3, 7 and 11 as unpatentable over US Patent 4,097,271 to Swinkels. The Office Action also rejected claim 5 as unpatentable over Reynaud further in view of Swinkels. The Applicant respectfully requests withdrawal of both rejections in view of the claim as amended and the prior arguments.

As previously discussed, independent claims 1 and 2 recite a “mixture of halides that has an oxidation potential sufficient to oxidize the sulfidic material and render the precious metal soluble in the solution,” which was not disclosed, taught or suggested by Reynaud. Swinkels does not cure the deficiencies of Reynaud. While Swinkels discloses a leaching solution comprising cuprous chloride, cupric chloride and ferrous chloride, Swinkels does not disclose a “solution comprising a mixture of halides that has an *oxidation potential sufficient to oxidize the sulfidic material*” (emphasis added). Swinkels, col. 4, 13-16. Instead, Swinkels discloses a leaching solution formed by the repetitive addition of a powerful oxidizing agent, chlorine gas, to the solution to maintain the proper oxidation potential of the solution. Swinkels, col. 4, line 35-41. For example, the preferred embodiment in Swinkels teaches first adding the leach solution and then feeding the powerful oxidizing agent, chlorine gas, to the leech solution at various points in the leach process to effectively extract the desired minerals. Swinkels, col. 4, line 32-35. In contrast, the presently claimed invention does not require a powerful oxidizing agent. And Swinkels does not disclose providing a mixture of halides in solution possessing the necessary oxidation potential to the precious metals soluble in the solution. As such, Swinkels does not disclose a “mixture of halides” in solution as claimed. The combined Swinkels and Reynaud references also do not disclose all the limitations of the claim. MPEP §§2143.03.

Consequently, the Applicant respectfully requests withdrawal of the rejection based on the cited references.

The Office Action also rejected dependent claims 3, 5, 8-11 and 13-14, 17-18, 21-22 and 28 under 35 USC 103(a). However, if an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837, F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, Applicant is not presenting additional arguments with respect to the patentability of the remaining dependent claims, although Applicant does not acquiesce to any of the rejections and reserves the right to raise additional arguments with respect to the patentability of such claims. As all remaining pending claims depend directly or indirectly from one of the subject claims, Applicant respectfully requests that the rejections under §103 be withdrawn. Also, because a *prima facie* case of obviousness has not been established, Applicant does not comment further here on the suitability of combining or modifying the cited references. Thus, reconsideration and withdrawal of the rejection is respectfully requested.

Also, the Office Action also rejected claims 21-22 and 28 as unpatentable over Raudsepp and further in view of Adams, "Characterization and Blinding of Carbonaceous Preg-Robbers in Gold Ores." As claims 21-22 and 28 were cancelled by this Amendment, the Applicant respectfully requests withdrawal of the rejection as moot.

Finally, the Office Action rejected claims 36-38 as unpatentable by US Patent 5,827,348 to Waddell. As claims 36-38 were cancelled by this Amendment, the Applicant respectfully requests withdrawal of the rejection as moot.

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'B. L. Stender', with a large, sweeping loop at the end.

Brian L. Stender
Registration No. 56,836

Customer No. 24113
Patterson, Thunte, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100
Telephone: (612) 252-1548